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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/802,060	03/16/2004	Richard G. Middleton	23411-33	3772

7590

12/14/2004

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Post Office Drawer 2426
Columbia, SC 29202-2426

EXAMINER

HAMLIN, DERRICK G

ART UNIT	PAPER NUMBER
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1751

DATE MAILED: 12/14/2004

Please find below and/or attached an Office communication concerning this application or proceeding.

Office Action Summary

Application No.

10/802,060

Applicant(s)

MIDDLETON, RICHARD G.

Examiner

Derrick G. Hamlin

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --
Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
 - If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
 - If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
 - Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

- 1) ☒ Responsive to communication(s) filed on 29 November 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

- 4) ☒ Claim(s) 1-20 is/are pending in the application.
- 4a) Of the above claim(s) _____ is/are withdrawn from consideration.
- 5) ☐ Claim(s) _____ is/are allowed.
- 6) ☒ Claim(s) 1-20 is/are rejected.
- 7) ☐ Claim(s) _____ is/are objected to.
- 8) ☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☐ The drawing(s) filed on _____ is/are: a) ☐ accepted or b) ☐ objected to by the Examiner.
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some * c) ☐ None of:
1. ☐ Certified copies of the priority documents have been received.
 2. ☐ Certified copies of the priority documents have been received in Application No. _____.
 3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

- 1) ☒ Notice of References Cited (PTO-892)
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- 3) ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)
Paper No(s)/Mail Date 6/04.
- 4) ☐ Interview Summary (PTO-413)
Paper No(s)/Mail Date. _____.
- 5) ☐ Notice of Informal Patent Application (PTO-152)
- 6) ☐ Other: _____.

DETAILED ACTION

1. Claims 1-20 are currently pending.

Double Patenting

The nonstatutory double patenting rejection is based on a judicially created doctrine grounded in public policy (a policy reflected in the statute) so as to prevent the unjustified or improper timewise extension of the "right to exclude" granted by a patent and to prevent possible harassment by multiple assignees. See *In re Goodman*, 11 F.3d 1046, 29 USPQ2d 2010 (Fed. Cir. 1993); *In re Longi*, 759 F.2d 887, 225 USPQ 645 (Fed. Cir. 1985); *In re Van Ornum*, 686 F.2d 937, 214 USPQ 761 (CCPA 1982); *In re Vogel*, 422 F.2d 438, 164 USPQ 619 (CCPA 1970); and, *In re Thorington*, 418 F.2d 528, 163 USPQ 644 (CCPA 1969).

A timely filed terminal disclaimer in compliance with 37 CFR 1.321(c) may be used to overcome an actual or provisional rejection based on a nonstatutory double patenting ground provided the conflicting application or patent is shown to be commonly owned with this application. See 37 CFR 1.130(b).

Effective January 1, 1994, a registered attorney or agent of record may sign a terminal disclaimer. A terminal disclaimer signed by the assignee must fully comply with 37 CFR 3.73(b).

Claims 1, 2, 5-15 and 18-20 are rejected under the judicially created doctrine of double patenting over claims 1-10 of U. S. Patent No. US 6,563,061 in view of Wolf et al (3649166), since the claims, if allowed, would improperly extend the "right to exclude" already granted in the patent.

The subject matter claimed in the instant application is fully disclosed in the patent and is covered by the patent since the patent and the application are claiming common subject matter, as follows: A method for recycling a pad used to absorb oil, said method comprising the steps of: centrifuging said pad, at a rate between 900 and 1200 RPM to remove a portion of oil from said pad; and drycleaning said pad in reused

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drycleaning fluid, to remove a second portion of oil from said pad, wherein said drycleaning solution is distilled to remove oil prior to reuse, and wherein said reused dry cleaning fluid contains less than 0.5%-15% oil, wherein said reused dry cleaning fluid is distilled twice prior to reuse. And a method for recycling a pad used to absorb oil, said method comprising the steps of: centrifuging said pad to remove a portion of oil from said pad; and drycleaning said pad in reused drycleaning fluid to remove a second portion of oil from said pad, wherein said drycleaning solution is distilled to remove oil prior to reuse, and wherein said reused dry cleaning fluid contains less than 7% oil, at a rate between 900 and 1200 RPM, until less than approximately 2% oil remains in said pad.

The reference fails to teach what kind of dry cleaning fluid is used.

Although the reference fails to teach the use of n-propyl bromide, its use as a dry cleaning fluid is well known in the art. Wolf is relied on for its teaching of suitable drycleaning fluids which can be sterilized by the method of this invention are the halogenated hydrocarbons having from one to four carbon atoms and two to six chlorine, fluorine or bromine atoms, the aliphatic hydrocarbon solvents commonly employed for drycleaning. Although the secondary reference fails to teach n-propyl bromide, it does clearly teach that bromo compounds will be sterilized by the method of the present invention although they are not widely available and are very costly to employ as drycleaning agents. (col. 1, lines 15-31)

It would therefore have been obvious to modify the primary reference by incorporating the teaching of the secondary reference in analogous art, because the

primary reference teaches the entire method with a dry-cleaning fluid that is to be recycled and the secondary reference clearly suggest that alkyl bromo compounds may be recycled and are useful when employed as dry-cleaning solvents, therefore there would be a reasonable expectation of success in the modification to one of ordinary skill in the art because the combination teaches the instantly claimed invention.

Furthermore, there is no apparent reason why applicant was prevented from presenting claims corresponding to those of the instant application during prosecution of the application, which matured into a patent.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

Evaluations of level of ordinary skill in the art requires consideration of factors such as various prior art approaches employed, types of problems encountered in the art, rapidity with which innovations are made, sophistication of technology involved, educational background of those actively working in the field, commercial success, failure of others, and the inventor's educational level.

The "person having ordinary skill" in this art has the capability of understanding the scientific and engineering principles applicable to the claimed invention. The references of record in this case reasonably reflect this level of skill.

Claim 1-20 are rejected under 35 U.S.C. 103(a) as being unpatentable over Middleton (US 6,230,353).

Middleton discloses a method for recycling a pad used to absorb oil, said method comprising the steps of: placing a pad on a grid to drain a first portion of oil absorbed by said pad; centrifuging said pad, at a rate between 900 and 1200 RPM to remove a portion of oil from said pad to remove a second portion of oil from said pad; and drycleaning said pad in reused drycleaning fluid to remove a third portion of oil from said pad and wherein said reused dry cleaning fluid contains less than 0.5%-15% oil, said drycleaning solution being twice distilled to remove oil prior to reuse. The reference also discloses an apparatus for recycling a pad used to absorb oil, where in the apparatus is used to carry out the method comprising the steps of: centrifuging said pad, at a rate between 900 and 1200 RPM to remove a portion of oil from said pad; and drycleaning said pad in reused drycleaning fluid, to remove a second portion of oil from said pad, wherein said drycleaning solution is distilled to remove oil prior to reuse, and wherein said reused dry cleaning fluid contains less than 0.5%-15% oil, wherein said reused dry cleaning fluid is distilled twice prior to reuse. And a method for recycling a pad used to absorb oil, said method comprising the steps of: centrifuging said pad to remove a portion of oil from said pad; and drycleaning said pad in reused drycleaning fluid to remove a second portion of oil from said pad, wherein said drycleaning solution is distilled to remove oil prior to reuse, and wherein said reused dry cleaning fluid contains less than 7% oil, at a rate between 900 and 1200 RPM, until less than approximately 2% oil remains in said pad. (col. 4, line 64 – col. 5, line 36)

The reference fails to teach what kind of dry cleaning fluid is used.

Although the reference fails to teach the use of n-propyl bromide, its use as a dry cleaning fluid is well known in the art. Wolf is relied on for its teaching of suitable drycleaning fluids which can be sterilized by the method of this invention are the halogenated hydrocarbons having from one to four carbon atoms and two to six chlorine, fluorine or bromine atoms, the aliphatic hydrocarbon solvents commonly employed for drycleaning. Although the secondary reference fails to teach n-propyl bromide, it does clearly teach that bromo compounds will be sterilized by the method of the present invention although they are not widely available and are very costly to employ as drycleaning agents.

It would therefore have been obvious to modify the primary reference by incorporating the teaching of the secondary reference in analogous art, because the primary reference teaches the entire method with a dry-cleaning fluid and the secondary reference clearly suggests that alkyl bromo compounds may be employed as solvents, therefore there would be a reasonable expectation of success in the modification to one of ordinary skill in the art because the combination teaches the instantly claimed invention.

Conclusion

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Derrick G. Hamlin whose telephone number is (571)

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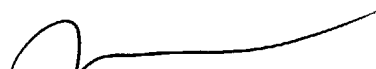
272-1317. The examiner can normally be reached on Monday-Fridays from ~8:30 AM to 5:00 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Dr. Yogendra Gupta, can be reached on (571) 272-1316. The fax phone number for the organization where this application or proceeding is assigned is 703-872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

Derrick G. Hamlin

11/29/04



NICHOLUS OGDEN
PRIMARY EXAMINER